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**IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA**

**FOURTH APPELLATE DISTRICT**

**DIVISION TWO**

EDWARD RODRIGUEZ,

Petitioner,

v.

THE SUPERIOR COURT OF  
RIVERSIDE COUNTY,

Respondent;

THE PEOPLE,

Real Party in Interest.

E061819

(Super.Ct.No. SWF1102367)

OPINION

ORIGINAL PROCEEDINGS; petition for writ of mandate. Mark Mandio, Judge.

Petition granted.

Law Offices of Paul Grech, Jr., Paul Grech, Jr., and Trenton C. Packer for  
Petitioner.

No appearance for Respondent.

Paul E. Zellerbach, District Attorney, and Ivy B. Fitzpatrick, Senior Deputy  
District Attorney, for Real Party in Interest.

In this matter we have reviewed the petition and offered real party in interest the opportunity to respond. Real party in interest agrees that petitioner is entitled to the relief sought; accordingly, we grant the petition.

### DISCUSSION

Although the interplay between subdivisions (b)(1) and (b)(2) of Penal Code section 1370 is not entirely clear, the former is more specific and therefore under general rules of construction governs. (See, e.g., *Sterling Park, L.P. v. City of Palo Alto* (2013) 57 Cal.4th 1193, 1200.) Because the designated evaluators concluded that there was “no substantial likelihood” that petitioner would return to competence in the foreseeable future, the court should have made an initial determination as to whether petitioner is gravely disabled and a conservatorship should be initiated. (Pen. Code, § 1370, subd. (c)(2).)

### DISPOSITION

Accordingly, the petition for writ of mandate is granted. Let a peremptory writ of mandate issue, directing the Superior Court of Riverside County to vacate its order for a retrial on competency, and instead to conduct further proceedings consistent with this opinion.

Due to real party in interest’s concession that relief should be granted, this opinion shall be final forthwith.

Petitioner is directed to prepare and have the peremptory writ of mandate issued, copies served, and the original filed with the clerk of this court, together with proof of service on all parties.

The previously ordered stay is lifted.

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MILLER  
J.

We concur:

HOLLENHORST  
Acting P. J.

CODRINGTON  
J.